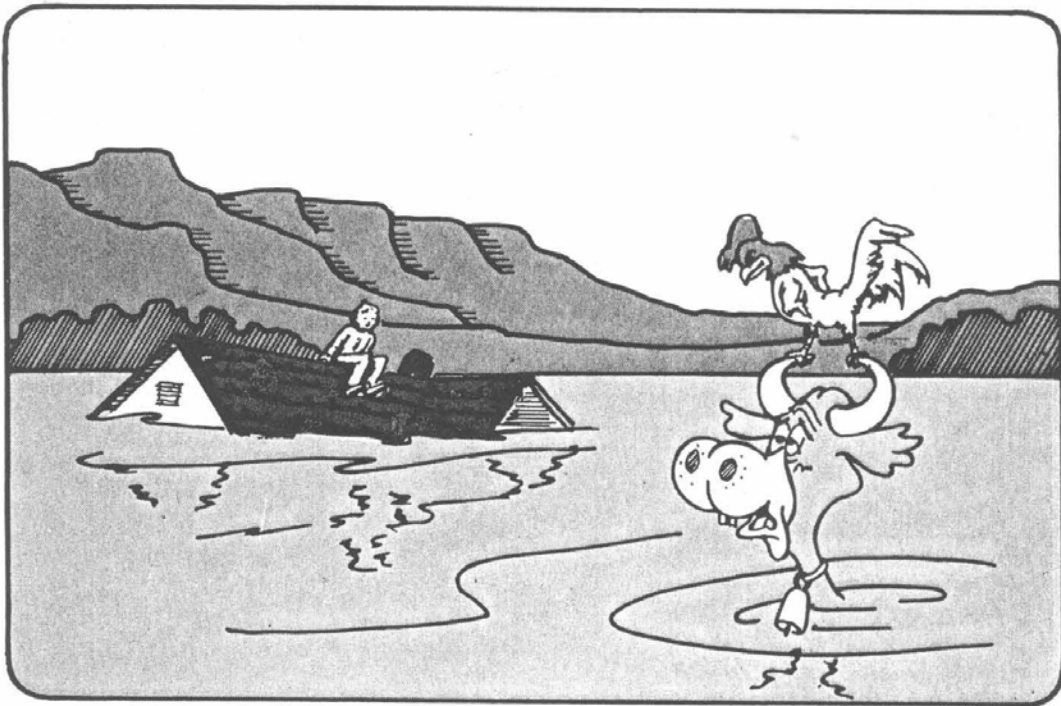




Floodplain Regulations Yellowstone County Montana



November 29, 2005

YELLOWSTONE COUNTY FLOODPLAIN REGULATIONS

Fifth Revision

AS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF YELLOWSTONE COUNTY

In compliance with the Montana Floodway Management and Regulation Act
Title 76, Chapter 5, Montana Codes Annotated

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PREFACE

Yellowstone County's Participation in the National Flood Insurance Program (NFIP).

Yellowstone County's participation in the National flood Insurance Program (NFIP) is based upon a mutual agreement with FEMA. In return for the local adoption and enforcement of floodplain management regulations that meet the minimum criteria of the NFIP, the Federal Emergency Management Agency (FEMA) provides the availability of flood insurance coverage within Yellowstone County. These floodplain management regulations must meet the minimum criteria of the NFIP and Yellowstone County is responsible for administering and enforcing these local floodplain management requirements pursuant to the county's own authority and procedures. FEMA periodically evaluates the administration and enforcement of the floodplain management program in relation to the NFIP regulations and has the authority to impose the penalties of probation and/or suspension for Yellowstone County if the overall floodplain management program is found to be inadequately administered or enforced.

It is the intent of these regulations to provide for the safety of the residents living or working along the rivers, streams & drainages in Yellowstone County by adopting land uses and common sense building practices. Maps showing the established and/or documented floodplains in Yellowstone County are available in the Floodplain Administrators Office in the County Courthouse or on the county's website at www.co.yellowstone.mt.us/des/floodplain/.

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| CHAPTER 1 TITLE AND PURPOSE |
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1.1 TITLE

These regulations shall be known and cited as the Yellowstone County Floodplain Regulations. These regulations are in accordance with and exercising the authority of laws of the State of Montana, Chapter 5, Floodplain and Floodway Management, 76-5-101 through 76-5-406, Montana Code Annotated 2003, web address of: <http://www.dnrc.state.mt.us/wrd/home.htm> and following the guidance of the Code of Federal Regulations administered by the Federal Emergency Management Agency (FEMA), web address of <http://www.fema.gov/fima/floodplain.shtm> .

1.2 FINDINGS

The people of Yellowstone County find that:

- (1) recurrent flooding of a portion of the county's land resources causes loss of life, damage to property, disruption of commerce and governmental services, and unsanitary conditions; all of which are detrimental to the health, safety, welfare, and property of the occupants of flooded lands and the people of this county; and
- (2) the public interest necessitates management and regulation of flood-prone lands and waters in a manner consistent with sound land and water use management practices which will prevent and alleviate flooding threats to life and health and reduce private and public economic losses.

1.3 POLICY AND PURPOSE

The policy and purpose of these regulations are to:

- (a) guide development of the floodplain and floodway areas of this county consistent with the enumerated findings;
- (b) recognize the right and need of watercourses to periodically carry more than the normal flow of water;
- (c) provide county coordination and technical assistance to land owners and developers in management of floodplain areas;
- (d) coordinate local management activities for floodway areas;
- (e) provide the Floodplain Administrator with authority necessary to carry out a comprehensive floodplain management program for the county.

Specifically, it is the purpose of these regulations to:

- (a) restrict or prohibit uses that are dangerous to health or safety of property in times of flood or that cause increased flood heights or velocities;
- (b) require that uses vulnerable to floods, including public facilities that serve the uses, be provided with flood protection at the time of initial construction;
- (c) develop and provide information to identify lands that are unsuited for certain development purposes because of flood hazard;
- (d) distinguish between the land use regulations applied to the designated floodway and those applied to that portion of the designated floodplain not contained within the designated floodway, commonly referred to as the flood fringe;
- (e) apply more restrictive land use regulations within the designated floodway;
- (f) manage community floodplains that are not mapped by FEMA that are identified in Chapter 3;
- (g) ensure that these regulations and minimum standards insofar as possible, balance the greatest public good with the least private injury.

CHAPTER 2 DEFINITIONS

2.1 DEFINITIONS

Unless specifically defined below, words or phrases used in these Regulations shall be interpreted as to give them the meaning they have in common usage and to give these Regulations their most reasonable application.

Act – Montana Floodplain and Floodway Management Act, 76-5-101 through 406, MCA.

Alteration – Any change or addition to a structure that either increases its external dimensions or increases its potential flood hazard.

Appeal – A request for a review of the Floodplain Administrator’s interpretation of any provisions of these regulations or a request for a variance.

Area of Shallow Flooding - A designated AO, AH, AR/AO, AR/AH, or VO zone on the Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard – The land in the floodplain within a community subject to inundation by a one percent (1%) or greater chance of flooding in any given year, i.e., the 100 year floodplain.

Artificial Obstruction – Development – Any obstruction which is not natural and includes any dam, diversion, wall, riprap, embankment, levee, dike, pile, abutment, projection, revetment, excavation, channel rectification, bridge, conduit, culvert, building, refuse, automobile body, fill or other analogous structure or matter in, along, across, or projecting into any floodplain or floodway that may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water, or that is placed where the natural flow of the water would carry the same downstream to the damage or detriment of either life or property.

Accessory Structure - A structure that is accessory to, or in addition to, any use that is permitted in these regulations (e.g. - a picnic shelter would be accessory to a campground). An Accessory Structure is secondary to the primary use that is permitted and complies with all other conditions imposed by these regulations and otherwise provided for by law.

Base Flood – A flood having a one percent (1%) chance of being equaled or exceeded in any given year. A base flood is the same as a 100-year flood, and the terms are used interchangeably.

Base Flood Elevation (BFE) – The elevation above sea level of the base flood in relation to National Geodetic Vertical Datum of 1929 unless otherwise specified in the flood hazard study.

Basement - Any area of the building having its floor sub grade (below ground level) on all sides.

Building – Any walled and roofed enclosure.

Channel – The geographical area within either the natural or artificial banks of a watercourse or drainway.

Channelization Project – The excavation and/or construction of an artificial channel for the purpose of diverting the entire flow of a stream from its established course.

Designated Floodplain – A floodplain whose limits have been designated and established by order of the Department of Natural Resources and Conservation, State of Montana.

Designated Floodway – A floodway whose limits have been designated and established by order of the Department of Natural Resources and Conservation, State of Montana.

Development - any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Dwelling – A permanent building for human habitation, a place for living purposes.

Drainway – Any depression 2 feet or more below the surrounding land serving to give direction to a current of water less than 9 months of the year and having a bed and well-defined banks.

Elevated Building - for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Erosion - the process of the gradual wearing away of land masses. This peril is not per se covered under the Flood Insurance Program.

Establish – To construct, place, insert, or excavate.

Existing Construction – for the purposes of determining rates, structures for which the “start of construction” commenced on or before the effective date of the County Floodplain Management Regulations and the FIRM, November 18, 1981. “Existing construction” may also be referred to as “existing structures.”

Existing Manufactured Home Park or Subdivision – A manufactured home park or subdivision where the construction of facilities for servicing the manufactured home lots is completed on or before the effective date of the County Floodplain Management

Regulations and the FIRM, November 18, 1981. This includes, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

FEMA (The Federal Emergency Management Agency) – The agency that manages compliance with the National Flood Insurance Program (NFIP) and provides flood hazard studies and maps.

Flood – The water of any watercourse or drainway that is above the bank or outside the channel and banks of the watercourse or drainway.

Flood of 100 Year Frequency – A flood magnitude that has a 1% chance of occurring in any given year commonly referred to as the base flood.

Flood Insurance Rate Map – The map on which FEMA has delineated the 100-year floodplain, the Base Flood Elevations (BFE) and the risk premium zones.

Flood Insurance Study – The report in which FEMA has provided flood profiles, as well as the Flood Boundary/Floodway Map and the water surface profiles.

Floodplain – The areas subject to these regulations, generally the channel of a river or stream and the area adjoining a river or stream, which would be covered by floodwater of a base flood except for designated shallow flooding areas that receive less than one foot of water per occurrence. The floodplain consists of a floodway and a floodway fringe.

Floodplain Management - the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations.

Flood Prone Area – the area of special flood hazard as identified on the United States Geological Survey maps.

Flood Proofing – any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, HVAC systems, structures and their contents. (e.g. elevating a furnace and/or electrical outlets within a structure two feet or more above the BFE).

Floodway – The channel of a stream and the adjacent overbank areas that must be reserved in order to discharge a base flood without cumulatively increasing the water surface elevation more than one-half (1/2) foot.

Floodway Fringe – The portion of the floodplain outside the limits of the floodway.

Freeboard - a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

HAG – Highest Adjacent Grade. This is required on the Elevation Certificate showing the elevation of the highest grade adjacent to a proposed development for flood insurance purposes.

Highest Adjacent Grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HVAC – Heating, Ventilating and Air Conditioning.

Hydraulics – The depth of water (elevation) in a drainage way, watercourse, river or stream channel.

Hydrology – The discharge in cubic feet per second (CFS) of water in a drainage way, watercourse, river or stream channel.

Levee – A man-made embankment, usually earthen, designed and constructed in accordance with the sound engineering practices to contain, control, or divert the flow of water to provide protection from temporary flooding.

Levee System – A flood protection system that consists of a levee, or levees, and associated structures, such as drainage and closure devices, which are constructed and operated in accordance with sound engineering practices.

LAG – Lowest Adjacent Grade. This is required on the Elevation Certificate showing the elevation of the lowest grade adjacent to a proposed development for flood insurance purposes.

Lowest Floor –the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. (An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor). The lowest floor is a determinate for the flood insurance premium for a building, home or business.

Manufactured Home – A structure, also referred to as a mobile home, that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. This does not include “recreational vehicles”.

Manufactured Home Park or Subdivision – A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level – The National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations are referenced.

MTDEQ - Montana Department of Environmental Quality.

MTDNRC (Montana Department of Natural Resources and Conservation) – The department responsible for the comprehensive program for the delineation of designated floodplains and designated floodways for each water course and drainway in the state.

New Construction – Structures, which include, new “stick built” or “moved” on structures, for which construction, substantial improvement, or alteration commences on or after the effective date of the County Floodplain Management Regulations and the FIRM, November 18, 1981.

Official Floodplain Maps – The Flood Insurance Rate Maps and Flood Boundary/Floodway Maps adopted and provided by the FEMA and/or MTDNRC for Yellowstone County and those maps/areas referenced in Chapter 3, Section 3.2 and Chapter 6, Section 6.1.

One Hundred (100) -Year Flood – A flood having a one percent (1%) chance of occurring in any given year. A 100-year flood has nearly a 23 percent chance of occurring in a 25-year period. A 100-year flood is the same as a base flood.

Permit Issuing Authority – The Floodplain Administrator who is appointed by the Board of County Commissioners of Yellowstone County.

Recreational Vehicle – A vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily for use as temporary living quarters for recreation, camping, travel, or seasonal use, not for use as a permanent dwelling.

Riverine - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Riprap – Stone, rocks, concrete blocks, or analogous material that is placed along the banks or bed of a stream to alleviate erosion.

Sheet flow area-- see “Area of Shallow Flooding”.

Set Back – The amount of distance between the stream bank of the river or stream and the proposed use, where the stream bank is the 100 year flood boundary.

Start of Construction – Commencement of clearing, grading, filling, or excavating to prepare a site for construction. It includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the

property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure – a walled and roofed building, manufactured home, a gas or liquid storage tank, bridge, culvert, dam, diversion, wall, revetment, dike, or other projection that may impede, retard, or alter the pattern of flow of water.

Substantial Damage - Damage sustained by a structure where the cost of restoring the structure to its condition before damage would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Substantial Improvement – Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

- (a) before the improvement or repair is started, or
- (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first construction to any wall, ceiling, floor, or other structural part of the building commences. The term does not include:
 - (i) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
 - (ii) Any alteration of a structure listed on the national register of historic places or state inventory of historic places.

Suitable Fill – Fill material which is stable, compacted, well graded, pervious and generally unaffected by water and frost, devoid of trash or similar foreign matter, devoid of tree stumps or other organic material, and is fitting for the purpose of supporting the intended use and/or permanent structure.

USGS – United States Geological Survey – the agency which developed the maps of the “Flood Prone Areas”.

Variance – A grant of relief from the requirements of these regulations that would permit construction in a manner otherwise prohibited by these regulations. An applicant has sixty (60) days to apply for a variance to the Board of County Commissioners after a permit has been denied by the Floodplain Administrator or to grant relief from these regulations.

Violation – The failure of a structure or other development to be fully compliant with these regulations or the floodplain permit issued. A structure or other development without a floodplain permit, an elevation certificate, certification by a licensed engineer or architect of compliance with these regulations, or other evidence of compliance is presumed to be in violation until such time as documentation is provided.

Water Surface Elevation - the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

CHAPTER 3 GENERAL PROVISIONS

3.1 JURISDICTIONAL AREA

These regulations shall apply to all lands within the jurisdiction of the County of Yellowstone, State of Montana, shown on maps and other documents as being located within a 100-year floodplain as described in Section 3.2.

3.2 FLOODPLAINS IN YELLOWSTONE COUNTY

The 100-year floodplains in Yellowstone County are shown and described on the following studies, maps and “Best Available Data”:

- A. FEMA Flood Insurance Study for the City of Billings and Yellowstone County, Montana (including the Clarks Fork River Study) with accompanying Flood Insurance Rate Maps (FIRM) and the Floodway maps dated March 21, 2000, inclusive of previous Flood Insurance Studies and maps dated September 8, 1999, May 2, 1991 and November 18, 1981.
- B. MTDNRC Final Order dated August 10, 2004 adopting the 100 year floodplain, floodway boundaries and the corresponding Base Flood Elevations for Unnamed Creek and for Dry Creek with Flood Insurance Studies and maps provided by the contract engineer.
- C. MTDNRC Final Order dated August 10, 2004 adopting the 100 year floodplain, floodway boundaries and the corresponding Base Flood Elevations for Cove Creek with Flood Insurance Studies and maps provided by the contract engineer.
- D. MTDNRC Final Order dated August 10, 2004 adopting the 100 year floodplain, floodway boundaries and the corresponding Base Flood Elevations for Five Mile Creek with Flood Insurance Studies and maps provided by the contract engineer.
- E. “Best Available Data” as shown on the Flood Photographs dated June 14, 1997 for those areas of the Yellowstone River not included in “A” above. See Chapter 6.
- F. “Best Available Data” as shown on the “Map of Flood-Prone Areas by the US Department of Interior, USGS, for those areas not included above in Section 3.2, A, B, C, D & E. See Chapter 6.

The floodplain maps referenced above shall be on file in the Office of the Yellowstone County Floodplain Administrator. Studies in progress include a restudy of the entire Yellowstone River and the West End of Billings to include Cove Creek (south of Rimrock Road) Little Cove Creek and Hogan’s Slough. Anticipated completion date is 2007.

3.3 FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator for Yellowstone County has been appointed by the Board of County Commissioners. The responsibilities of this position are outlined in Chapter 4 of these regulations.

3.4 RULES FOR INTERPRETATION OF FLOODPLAIN BOUNDARIES

The boundaries of the 100-year floodway shall be determined by scaling distances on the Official Floodplain Maps and using the floodway data table contained in the flood insurance study report. The maps may be used as a guide for determining the 100-year floodplain boundary, but the exact location of the floodplain boundary shall be determined where the base flood elevation intersects the natural ground. For unnumbered A Zone and AO Zone floodplains, where there is a conflict between a mapped floodplain boundary and actual field conditions, the Floodplain Administrator may interpret the location of the 100-year floodplain boundary based on field conditions or available historical flood information. Where the surveyed elevation indicates an error in a floodplain boundary on a floodplain map, the homeowner/landowner needs to advise the Floodplain Administrator and may submit a Letter of Map Amendment (LOMA) to FEMA. Information is available at www.fema.gov/fhm/.

3.5 COMPLIANCE

No land use shall be developed, and no structure shall be located, extended, converted, or structurally altered within the 100 year floodplain without full compliance with the provisions of these regulations and other applicable regulations. These regulations meet the minimum requirements as set forth by the Montana Board of Natural Resources and Conservation, and the National Flood Insurance Program.

3.6 ABROGATION AND GREATER RESPONSIBILITY

It is not intended by these regulations to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or underlying zoning. However, where these regulations impose greater restrictions, the provision of these regulations shall prevail.

3.7 REGULATION INTERPRETATION

In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statute.

3.8 WARNING AND DISCLAIMER OF LIABILITY

These regulations do not imply that areas outside the floodplain boundaries or land uses permitted within such areas will always be totally free from flooding or flood damages. These regulations shall not create a liability on the part of or a cause of action against the County of Yellowstone or any office or employee thereof for any flood damage that may result from reliance upon these regulations.

3.9 SEVERABILITY

If any section, clause, provision, or portion of these regulations is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby.

3.10 DISCLOSURE PROVISION

All property owners or realtors and developers representing property owners in a 100-year floodplain or floodway as described in Section 3.2 must notify potential buyers or their agents that such property is located within the floodplain or floodway and is subject to regulation. Information regarding floodplain areas or the repository for floodplain maps is available in the Floodplain Administrators Office.

3.11 AUTHORITY TO ENTER AND INVESTIGATE LANDS OR WATERS

The Floodplain Administrator may make reasonable entry upon any lands and waters in Yellowstone County for the purpose of making an investigation, inspection or survey to verify compliance with these regulations. The Floodplain Administrator shall provide notice of entry by mail, electronic mail, phone call, personal delivery to the owner, owner's agent, lessee, or lessee's agent whose lands will be entered. If none of these persons can be found, the Floodplain Administrator shall affix a copy of the notice to one or more conspicuous places on the property for five (5) days. If the owners do not respond, cannot be located or refuse entry to the Floodplain Administrator, the Floodplain Administrator may only enter the property through a Search Warrant obtained from the Court through the County Attorney's Office.

An investigation of a natural or artificial obstruction or nonconforming use shall be made by the Floodplain Administrator, either on his own initiative, or at the request of titleholders of land abutting the watercourse or drain way involved, or on the written request of a governing body or permitting agency.

CHAPTER 4 ADMINISTRATION

4.1 ADMINISTRATION

- A. As provided in Section 3.3 of these regulations, the Floodplain Administrator has been designated by the Board of County Commissioners and has all the duties and responsibilities of the position as outlined in these regulations.
- B. The Floodplain Administrator has the authority to review zoning, building, and floodplain permit applications and proposed uses or construction to determine compliance with these regulations to ensure that structures/buildings are reasonably safe from flooding. He has the sole authority to issue floodplain permits for Yellowstone County. He is required to notify applicants of other necessary permits from those governmental agencies from which approval is required by Federal and State law and local codes, including Section 404 of the Federal Water Pollution Control Act of 1972, 33 U.S.C. 1334, the Montana Stream Protection Act and the Montana Natural Streambed and Land Preservation Act. Applicants are encouraged to view the floodplain web site at www.co.yellowstone.mt.us/des/floodplain.
1. Additional Factors – Floodplain development permits shall be granted or denied by the Floodplain Administrator on the basis of whether the proposed establishment, development, alteration, or substantial improvement of an artificial obstruction meets the requirements of these regulations. Additional factors that shall be considered for every permit application are:
- a. The danger to life and property due to increased flood heights, increased floodwater velocities, backwater or alterations in the pattern of flood flow caused by the obstruction or encroachment;
 - b. The danger that the obstruction or encroachment may be swept onto other lands or downstream to the injury of others;
 - c. The ability of the proposed water supply and/or sanitation system to prevent disease, contamination, and unsanitary conditions;
 - d. The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;
 - e. The construction or alteration of the obstruction or encroachment in such manner as to lessen the flooding danger;
 - f. The importance of the services provided by the facility to the community;
 - g. The requirement of the facility for a waterfront location;
 - h. The availability of alternative locations not subject to flooding for the proposed use;
 - i. The compatibility of the proposed use with existing development and anticipated development in the foreseeable future;
 - j. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
 - k. The safety of access to property in times of flooding for ordinary and emergency services;

- l. The request for fill for a residential or commercial building is not followed by a request for a basement for the same residential or commercial building, which would put the finished floor of the building below the BFE, which would negate the purpose of the fill.
 - m. The proposed use shall comply with the existing zoning designation;
 - n. For projects involving bank stabilization, channelization, levees, floodwalls and/or diversions, off property impacts including increased flood peaks, flood stage, flood velocity, erosion and sedimentation, should be considered and found to be non-existent, neutral or able to be mitigated; and
 - o. Such other factors as are in harmony with the purposes of these regulations, the Montana Floodplain and Floodway Management Act, and the National Flood Insurance Program.
- C. A floodplain development permit application shall be approved or denied within sixty (60) days after the date of receipt of the application by the Floodplain Administrator, unless the applicant has been notified that additional information pertinent to the permit review process is required, or more time is required to process the application.
- D. The Floodplain Administrator shall adopt such procedures as may be necessary to efficiently administer the provisions of these regulations.
- E. The Floodplain Administrator shall maintain such files and records as may be necessary to document non-conforming uses, base flood elevations, floodproofing and elevation certificates, fee receipts, the issuance of permits, agendas, minutes, records of public meetings, and any other matter relating to floodplain management in Yellowstone County. Such files and records shall be open for public inspection.
- F. Copies of all permits granted shall be sent to the MTDNRC.
- G. The Floodplain Administrator may require whatever additional information is necessary to determine whether the proposed activity meets the requirements of these regulations. Additional information may include elevation or flood proofing certificates, a level survey and/or hydraulic and hydrology calculations by a registered land surveyor, engineer, or licensed architect to assess the impact of the volume of water, determine the base flood elevation, water velocities and ground elevations.
- H. Upon receipt of an application for a permit, the Floodplain Administrator shall prepare a notice containing the facts pertinent to the application and shall publish the notice at least once in a newspaper of general circulation in the area. Notice shall also be served by first-class mail upon adjacent property owners, DNRC Floodplain Management Section and other permitting agencies by the most efficient method. The notice shall provide a reasonable period of time, not less than 15 days, for interested parties to submit comments on the proposed activity.
- I. In riverine situations that may impact other communities or counties, the Floodplain Administrator must notify adjacent communities, the Floodplain Management

Section of DNRC and FEMA prior to any alteration or relocation of a stream having a designated floodplain to assure that the flood-carrying capacity within the altered or relocated portion of any stream is maintained. Erosion control measures shall be incorporated to ensure stability of altered channels and stream banks.

4.2 PERMIT APPLICATIONS

- A. Yellowstone County uses a “Joint Permit Application” (attached in the appendix) which an applicant submits to the Floodplain Administrator for uses proposed in the floodplains in Yellowstone County. Uses which require the issuance of a permit, including the expansion or alteration of such uses, shall not be established or undertaken until a permit has been issued by the Floodplain Administrator.
- B. Permit applicants shall be required to furnish the following information as deemed necessary by the Floodplain Administrator for determining the suitability of the particular site for the proposed use:
1. Site and/or construction plans, drawn to scale with dimensions, showing the nature, location and elevation of the lot, existing and proposed structures, storage of materials, flood proofing measures, elevation of the first floor of the proposed structures, the location of the channel, contours of the existing ground, street or road finished grade elevations, well location, individual sewage treatment and disposal site, and excavation and/or fill quantity estimates.
 2. Specifications for flood proofing, filling, excavating, grading, riprapping, storage of materials and location of utilities.
 3. A professional engineer’s or registered architect’s design calculations and certification that the proposed activity has been designed to be in compliance with these regulations.
 4. Certification of flood proofing and/or elevation shall be provided on a standard FEMA form available on line or from the Floodplain Administrator.
- C. To determine that the permit specifications and conditions have been completed, applicants who have received permits are required to furnish the following at the time of an on-site conformance inspection or within ten (10) days of the inspection:
1. Certification by a registered professional engineer or licensed land surveyor of the actual mean sea level elevation of the lowest floor (including basement) of all new, altered or substantially improved buildings (Elevation Certificate).
 2. If flood-proofing techniques were used for buildings, the mean sea level elevation to which the flood proofing was accomplished must be certified by a structural engineer or licensed architect in the same manner (Flood Proofing Certificate).
 3. Certification shall also be required, for artificial obstructions other than buildings that the activity was accomplished in accordance with these regulations and the design plans submitted with the application for the permit activity. This certification may be waived by the Floodplain Administrator if it can be clearly ascertained by a site inspection that the activity was accomplished in accordance with these regulations.
 4. Certification of flood proofing and/or elevation shall be provided on a standard form available from the Floodplain Administrator or from the County or FEMA web site.

4.3 EMERGENCY WAIVER

Emergency repair and replacement of severely damaged public transportation facilities, public water and sewer facilities, and flood control works may be authorized by the Floodplain Administrator if:

1. Upon notification and prior to the emergency repair and/or replacement, the Floodplain Administrator determines that an emergency condition exists warranting immediate action; and
2. The Floodplain Administrator agrees upon the nature and type of proposed emergency repair and/or replacement.

Authorization to undertake emergency repair and replacement work may be given verbally if the Floodplain Administrator feels that such a written authorization would unduly delay the emergency work. Such verbal authorization must be followed by a written permit describing the emergency condition, the type of emergency work agreed upon, and stating that a verbal authorization had been previously given.

4.4 APPEALS & VARIANCES

- A. The Board of County Commissioners will hear and review all appeals and variances to the provisions of these regulations or a decision made by the Floodplain Administrator. An aggrieved applicant has sixty (60) days from the action of the Floodplain Administrator to appeal or apply for a variance from the Board of County Commissioners. Applications for variances are available from the Floodplain Administrator.
- B. The Board of County Commissioners may issue a variance that is not in compliance with the minimum standards contained in these regulations according to the following procedures:
 1. Variances shall not be issued within a floodway if any additional increase in flood elevations or velocities, after the allowable encroachment into the floodway, would result;
 2. Variances shall only be issued upon:
 - a. a showing of good and sufficient cause;
 - b. a determination that refusal of a permit due to exceptional circumstances would cause a unique or undue hardship on the applicant or community involved;
 - c. a determination that the granting of a variance will not result in increased flood hazards, present additional threats to public safety, be an extraordinary public expense, create nuisances, cause fraud, victimize the public, or conflict with existing state and local laws;
 - d. a determination that the proposed use would be adequately flood-proofed;
 - e. a determination that a reasonable alternate location outside the floodplain is not available; and
 - f. a determination that the variance requested is the minimum necessary to afford relief, considering the flood hazard.

3. Variances shall be issued in writing from the Board of County Commissioners with sixty (60) days of the receipt of the application for the variance.
 4. The Board of County Commissioners shall notify the applicant that:
 - a. a specific variance is granted, and certain conditions may be attached, or denied and the reasons why;
 - b. the issuance of a variance to construct a building below the base flood elevation will result in increased premium rates; and
 - c. such construction below the 100-year flood elevation increases risks to life and property.
 5. The Board of County Commissioners will provide a copy of the variance action to the Floodplain Administrator. The Floodplain Administrator shall maintain records of the variance notification and actions, including justification for their issuance or denial, and forward copies of all variance actions to MTDNRC and the Federal Emergency Management Agency.
- C. Appeals of any decision (s) of the Floodplain Administrator, the Board of County Commissioners, or its officers may be taken by an aggrieved person or persons, jointly or separately, to a court of record.
- D. NATURE OF VARIANCES - The NFIP variance criteria is based on the principle of zoning law that variances pertain to a piece of property and are not personal in nature.
- In general, a properly issued variance is granted for a parcel of property with physical characteristics so unusual that complying with the regulations would create an exceptional hardship to the applicant or the surrounding property owners.

In determining whether or not an applicant has established an exceptional hardship sufficient to justify a variance, the Board of County Commissioners should weigh the applicant's hardship against the purpose of the regulations. In case of variances from a flood elevation requirement, this would mean asking which is more serious: the hardship that this individual applicant would face, or the county's need for strictly enforced regulations that protect its citizens from the dangers and damages of flooding. Only a truly exceptional, unique hardship on the part of an individual property should persuade local and state officials to set aside provisions of the regulations designed with the whole community's safety in mind.

4.5 FEES

A non-refundable processing fee of fifty dollars (\$50.00) shall be submitted with each permit and/or variance application. This fee will cover the administrative cost of processing the permit and/or variance, providing public notice and performing sufficient field inspections to ensure compliance with these regulations.

4.6 VIOLATION NOTICE

The Floodplain Administrator shall provide written notice, including a "Cease and Desist" notice of any violation of these regulations to the violating party, in an attempt to remedy the violation. If a remedy cannot be reached or the violation resolved, a written notice of the violation must be sent to the Yellowstone County Board of Commissioners, the

Yellowstone County Attorney, and the MTDNRC and the violating party. The Yellowstone County Attorney may levy penalties described in Section 4.8.

4.7 COMPLIANCE

Any use, alteration, or construction not in compliance with that authorized shall be deemed a violation of these regulations and punishable as provided in Section 4.8 or enforced as provided in 76-5-109 MCA. An applicant may be required to submit certification by a registered professional engineer, architect, or other qualified person designated by the Floodplain Administrator, that finished fill, building floor elevations, flood proofing, hydraulic design, or other flood protection measures be accomplished in compliance with these regulations.

4.8 PENALTIES

Violation of the provisions of these regulations or failure to comply with any of the requirements, including failure to obtain permit approval prior to development on the floodplain shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements (including the conditions and safeguards established in variances) shall, upon conviction thereof, be fined not more than five hundred (\$500) or imprisoned for not more than six (6) months or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the County of Yellowstone from taking such other lawful action as necessary to prevent or remedy any violation. In addition, failure to comply with these regulations may cause a denial of flood insurance for residents in Yellowstone County, and no new flood insurance can be issued on properties in non-compliance.

CHAPTER 5 SPECIFIC STANDARDS

5.1 APPLICATION

The minimum floodplain development standards listed in this chapter and Title 76, Chapter 5, MCA, apply to all the floodplains referenced in Chapter 3, Section 3.2 of these regulations. Regulations and floodplain areas can be reviewed at www.co.yellowstone.mt.us/des/floodplain.

5.2 FLOODWAY

A. **USES ALLOWED WITHOUT PERMIT** – The following open space uses shall be allowed without a permit anywhere within the floodway, provided that such uses are not prohibited by any other resolution or statute, do not require structures other than portable structures, do not require alteration of the floodplain such as fill, excavation or permanent storage of materials or equipment, do not require large scale cleaning of the riparian vegetation within fifty (50) feet of the mean high water mark, will not cause flood losses on other land or to the public:

1. Agricultural uses such as tilling, farming, irrigation, harvesting, grazing, etc;
2. Private and public recreational uses such as picnic grounds, swimming areas, parks, trap, skeet, target, shooting, and archery ranges, wildlife management and natural areas, hunting and fishing areas, or hiking and horseback riding trails;
3. Recreational vehicle use provided that they be on the site for fewer than 180 consecutive days or be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system with wheels intact, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

B. **USES REQUIRING PERMITS** – The following nonconforming uses and artificial obstructions may be permitted within the designated floodway, provided that such uses conform to the provisions of Chapter 4, Section 4.1.B.1:

1. Excavation of material from pits or pools provided that:
 - a. A buffer strip of undisturbed land of sufficient width to prevent flood flows from channeling into the excavation is left between the edge of the channel and the edge of the excavation;
 - b. The excavation meets all applicable laws and regulations of other local and state agencies; and
 - c. Excavated material is stockpiled outside the floodplain. (However, for short term gravel mining operations, the Floodplain Administrator may allow stockpiling in the floodway fringe if there is no other alternative and there is no significant (1/2 foot) rise in the BFE. A “No Rise Certification” signed by a licensed engineer shall be required).

2. Railroad, highway, and street stream crossings, provided that:
 - a. The crossings are designed to offer minimal obstructions to the flood flow;
 - b. The bottom of bridge spans shall have a freeboard of at least two (2) feet above the BFE to pass ice flows, the 100 year flood discharge and any debris associated with the discharge;
 - c. If possible, normal overflow channels are preserved to allow passage of sediments to prevent aggradations;
 - d. Mid stream supports for bridges, if necessary, must have footings buried below the maximum scour depth; and
 - e. Stream crossings shall not increase the elevation of the 100-year flood more than one-half foot nor cause a significant increase in flood velocities. The applicant shall provide a “No-Rise” certification signed by a registered professional engineer.

3. Limited filling for highway, street, and railroad embankments not associated with stream crossings and bridges provided that:
 - a. reasonable alternate transportation routes outside the designated floodway are not available;
 - b. the encroachment is located as far from the stream channel as possible;
 - c. measures are provided to mitigate the impact to property owners and the natural stream function; and
 - d. the encroachment shall not result in a cumulative increase exceeding one-half foot in base flood elevation, after the allowable encroachment into the floodway. A “No-Rise” certification signed by a registered professional engineer shall be provided by the applicant.

4. Buried or suspended utility transmission lines, provided that:
 - a. Suspended utility transmission lines are designed such that the lowest point of the suspended line is at least six (6) feet higher than the elevation of the flood of one-hundred (100) year frequency;
 - b. Towers and other appurtenant structures are designed and placed to withstand and offer minimal obstruction to flood flows;
 - c. When technically feasible, the crossing will not disturb the bed and banks of the stream and alternatives such as alternative routes, directional drilling, and aerial crossings are considered; and
 - d. Utility transmission lines carrying toxic or flammable materials are buried to a depth of at least twice the calculated maximum depth of scour for a flood of one hundred (100) year frequency. The maximum depth of scour may be determined from any of the accepted hydraulic engineering methods, but the final calculated figures shall be subject to approval by the Floodplain Administrator.

5. Storage of materials and equipment, provided that:
 - a. The material or equipment is not subject to major damage by flooding and is properly anchored to prevent flotation or downstream movement; and,
 - b. The material or equipment is readily removable within the limited time available after flood warning. Storage of flammable, toxic or explosive materials shall NOT BE PERMITTED.

6. Irrigation, livestock and domestic water supply wells, provided that:
 - a. They are driven or drilled wells located on ground higher than surrounding ground to assure positive drainage from the well;
 - b. They require no other structures (e.g. a well house);
 - c. Well casings are water tight to a distance of at least twenty-five (25) feet below the ground surface;
 - d. Water supply and electrical lines have a watertight seal where the lines enter the casing;
 - e. All pumps and electrical lines and equipment are either of the submersible type or are adequately flood proofed;
 - f. Check valves are installed on main water lines at wells and at all building entry locations; and
 - g. Irrigation and livestock supply wells are located at least 500 feet from domestic water supply wells.

7. Only those wastewater disposal systems that meet the requirements and separation distances under ARM 17.36.101-116 and ARM 17.36.301-345 and/or under Yellowstone City-County Board of Health Rule Number 3 are allowed.

8. Fences crossing channels;

9. Residential uses not requiring buildings such as lawns, gardens, parking areas and play areas;

10. Public or private recreational uses not requiring structures such as campgrounds, golf courses, driving ranges, archery ranges, wildlife management and natural areas, alternative livestock ranches (game farms), fish hatcheries and shooting preserves provided that:
 - a. Access roads require only limited fill and do not obstruct or divert flood waters;
 - b. There are no dwellings or permanent mobile homes;
 - c. There is no rise in the BFE;
 - d. Off property impacts have been considered and found to be non-existent, neutral or can be mitigated.
 - e. There is no large-scale clearing of riparian vegetation within 50 feet of the mean annual high water mark; and
 - f. Recreational vehicles and travel trailers are licensed and ready for highway use. They are ready for highway use if on wheels or jacking system with wheels intact, are attached to the site with only quick disconnect type utilities and securing devices, and have no permanently attached additions.

11. Structures accessory to the uses permitted in this section, such as boat docks, loading and parking areas, marinas, emergency airstrips, permanent fences crossing channels, picnic shelters and tables, provided that:
 - a. The structures are not intended for human habitation or supportive of human habitation;
 - b. The structures will have low flood damage potential as certified by a registered professional engineer on a “No-Rise” certificate;

- c. The structures will, insofar as possible, be located on ground higher than the surrounding ground and as far from the channel as possible;
 - d. Only those wastewater disposal systems that meet the requirements and separation distances under ARM 17.36.101-116 and ARM 17.36.301-345 and/or under Yellowstone City-County Board of Health Rule Number 3 are allowed.
 - e. Service facilities within these structures such as electrical, heating and plumbing are flood proofed in accordance with Chapter 7;
 - f. The structure will be constructed and placed so as to offer a minimal obstruction to flood flows and is firmly anchored to prevent flotation;
 - g. The use does not require fill and/or substantial excavation; and
 - h. The use does not require the large scale clearing of riparian vegetation within fifty (50) feet of the mean annual high water mark.
12. Replacement of manufactured homes in an existing manufactured home park or subdivision on a developed site of the same dimensions with servicing utilities. (Previous home could have been destroyed by fire, flood, etc.) The replacement home must be elevated on a permanent foundation so the lowest floor is 2 feet above the base flood elevation. The foundation must be reinforced concrete, reinforced-mortared block, reinforced piers, or other foundation elements of equal strength. The mobile home chassis must be securely anchored to the foundation system so that it will resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to:
- a. over-the-top ties to ground anchors be provided at each of the four (4) corners of the mobile home, with two additional ties per side at intermediate locations for mobile homes less than fifty (50) feet long;
 - b. frame ties to ground anchors be provided at each corner of the home with five (5) additional ties per side at intermediate points, for mobile homes more than fifty (50) feet long;
 - c. all components of the anchoring system be capable of carrying a force of 4,800 pounds;
 - d. any additions to the mobile home must be similarly anchored; and
 - e. adequate surface drainage and access for a hauler are provided.
13. Agricultural structures (except buildings, dwellings and fuel storage) that will have low flood damage potential, or be located on higher ground and as far from the channel as possible, and meet the flood proofing requirements of Chapter 7.
14. New surface water diversions and changes in place of diversion for agricultural uses and other uses, with certification by a registered engineer if:
- a. The proposed diversion or change in place of diversion will not increase the upstream elevation of the base flood one-half foot (1/2 foot) or more or to the detriment of a neighboring property;
 - b. The proposed diversion is designed and constructed to minimize potential erosion from a base flood;
 - c. For a permanent diversion structure crossing the full width of the stream channel:
 - 1) All other options should be studied and considered first;

- 2) The structure is designed and constructed to withstand up to a base flood;
and
 - 3) The diversion is not an obstruction to the passage of water craft or fish.
15. The following flood control measures certified by a registered professional engineer to comply with the conditions set forth (structural flood control works often significantly obstruct and affect floodway flow capacity):
- a. Levees and floodwalls (new, reconstruction and/or maintenance) if:
 - 1). the proposed levee or floodwall is designed and constructed to safely convey a 100 year flood; and
 - 2). the cumulative effect of the levee or floodwall combined with allowable floodway fringe encroachments does not increase the unobstructed base flood elevation more than one half foot (1/2 foot). The Floodplain Administrator may establish either a lower or higher permissible increase in the base flood elevation for individual levee projects only with concurrence from the Montana Department of Natural Resources and Conservation and the Federal Emergency Management Agency based upon consideration of the following criteria:
 - a) the estimated cumulative effect of any anticipated future permissible uses; and
 - b) the type and amount of existing development in the effected area.
 - 3). the proposed levee or floodwall, except those to protect agricultural land, is constructed at least 3 feet higher than the base flood elevation.
 - b. Bank stabilization projects, such as hand placed rip rap, native revetments, weirs, barbs, etc, if:
 - 1). it is designed to withstand a 100-year flood;
 - 2). it does not increase the base flood elevation;
 - 3). it will not increase erosion upstream, downstream, or adjacent to the site;
 - 4). consideration will be given to accommodate the safe passage of water craft in low flows; and/or
 - 5). it is preventive maintenance for bridge abutments, roads, industrial uses and public infrastructure.
 - c. Channelization projects if they do not significantly increase the magnitude, velocity, or base flood elevation in the proximity of the project.
 - d. Dams provided that:
 - 1). they are designed and constructed in accordance with the Montana Dam Safety Act and applicable safety standards; and
 - 2). they will not increase flood hazards downstream either through operational procedures or improper hydrologic/hydraulic design.
16. All other artificial obstructions, substantial improvements, or non-conforming uses not specifically listed in or prohibited by these regulations.

E. **PROHIBITED USES** - The following artificial obstructions and non-conforming uses are prohibited within the floodway:

1. A building, dwelling or structure for living purposes, place of assembly or permanent use by human beings;
2. New construction of any residential dwelling, commercial or industrial building;
3. Encroachments, including fill, new construction, buildings, substantial improvements, excavations and other development that would cause water to be diverted from the established floodway, erosion of embankment, obstruction of the natural flow of waters, reduce the carrying capacity of the floodway or increase flood levels within the community during the occurrence of the 100 year flood;
4. The construction or permanent storage of an object subject to flotation or movement during the 100 year flood;
5. Mobile homes and manufactured homes, except as a replacement in an existing mobile home park or subdivision;
6. Storage and disposal of solid waste, hazardous waste, toxic, flammable, or explosive materials;
7. Only those wastewater disposal systems that meet the requirements and separation distances under ARM 17.36.101-116 and ARM 17.36.301-345 and/or under Yellowstone City-County Board of Health Rule Number 3 are allowed.
8. Cemeteries, mausoleums, or any other places of burial of human remains.

5.3 FLOODWAY FRINGE

- A. **USES ALLOWED WITHOUT PERMITS** – All uses allowed in the floodway without permit according to the provisions of these regulations, shall also be allowed without a permit in the floodway fringe.
- B. **USES REQUIRING PERMITS** – All uses allowed in the floodway subject to the issuance of a permit according to the provisions of these regulations shall also be allowed by permit within the designated floodway fringe. In addition, new construction, substantial improvements, alterations to structures (including, but not limited to residential, commercial, agricultural and industrial), and suitable fill shall be allowed subject to the following conditions:
1. Such structures or fill must not be prohibited by any other statute, regulation, ordinance, or resolution;
 2. Such structures or fill must be compatible with local comprehensive plans, if any;
 3. The new construction, alterations, and substantial improvements of residential dwellings including manufactured homes must be constructed on suitable fill with a permanent foundation such that the lowest floor elevation (including basement) is two (2) feet or more above the BFE (Base Flood Elevation). The suitable fill shall be at an elevation no lower than the elevation of the 100-year flood and shall extend for at least fifteen (15) feet, at that elevation, beyond the dwelling(s) in all directions. Replacement manufactured and mobile homes in an existing mobile home park or subdivision may, instead of using suitable fill, be elevated on a concrete or mortared block foundation, or other suitable permanent foundation, and anchored to prevent flotation or downstream movement.
 4. The new construction, alteration, and substantial improvement of commercial and industrial buildings must be constructed on suitable fill with a permanent foundation such that the lowest floor elevation (including basement) is two (2) or more feet above the BFE (Base Flood Elevation), **OR** the building must be adequately floodproofed to an elevation no lower than two (2) feet above the elevation of the 100-year flood. Certification is required by registered professional engineer, architect, or other qualified person that flood-proofing methods are adequate to withstand the flood depths, hydrodynamic and hydrostatic pressures, velocities, impact, buoyancy, and uplift forces associated with the 100-year flood (Chapter 7).
 - a. If the building is designed to allow internal flooding of the lowest floor, use of the lowest floor must be limited to parking, loading areas, and storage of equipment or materials not appreciably affected by floodwaters. The floors and walls shall be designed and constructed of materials resistant to flooding to an elevation no lower than two (2) feet above the BFE. Walls shall be designed to equalize hydrostatic forces by allowing for entry and exit of floodwaters. Openings may be equipped with screens, louvers, valves, and other coverings or devices which permit the automatic entry and exit of floodwaters.
 - b. Buildings whose lowest floors are used for a purpose other than parking, loading, or storage of materials resistant to flooding shall be waterproofed to an

- elevation no lower than two (2) feet above the BFE. Flood proofing shall include impermeable membranes or materials for floors and walls and watertight enclosures for all windows, doors and other openings. These buildings shall be designed to withstand the hydrostatic pressures and hydrodynamic forces resulting from the base flood.
- c. Flood proofing of electrical, heating and plumbing systems shall be accomplished in accordance with Chapter 7.
5. All manufactured homes placed in the floodway fringe must have the chassis securely anchored to a foundation system that will resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, over-the-top or frame ties to ground anchors. The following conditions also apply;
 - a. When a manufactured home is 1) altered, 2) replaced because of substantial damage as a result of a flood or 3) replaced on an individual site, the lowest floor must be elevated two (2) feet above the base flood elevation. The home can be elevated on fill or raised on a permanent foundation of reinforced concrete, reinforced mortared block, reinforced piers, or other foundation elements of at least equivalent strength.
 - b. Replacement or substantial improvement of manufactured homes in an existing manufactured home park or subdivision must be raised on a permanent foundation. The lowest floor must be two feet above the base flood elevation. The foundation must consist of reinforced concrete, reinforced mortared block, reinforced piers, or other foundation elements of at least equivalent strength.
 - c. Manufactured homes proposed for use as commercial or industrial buildings must be elevated and anchored, rather than flood proofed.
 6. Fill material placed in the floodway fringe must be stable, compacted, well graded, pervious, generally unaffected by water and frost, devoid of trash or similar foreign matter, devoid of tree stumps or other organic material, and appropriate for the purpose of supporting the intended use and/or permanent structure;
 7. Roads, streets, highways and rail lines shall be designed to minimize any increase in flood heights. Where failure or interruption of transportation facilities would result in danger to the public health or safety, the facility shall be located two (2) feet above the elevation of the 100-year flood;
 8. Agricultural buildings that have a low damage potential, such as sheds, barns, shelters, and hay or grain storage structures must be adequately anchored to prevent flotation or collapse and all electrical facilities shall be placed two (2) feet above the base flood elevation;
 9. Recreational vehicles, if they are on the site for more than 180 consecutive days or are not ready for highway use, must meet the elevating requirements of these regulations;
 10. Off property impacts are considered and found to be non-existent or neutral; and

11. Proposed development shall not have a large scale clearing of riparian vegetation within 50 feet of the mean annual high water mark.

C. **PROHIBITED USES** – The following artificial obstructions and non-conforming uses are prohibited within the floodway fringe:

1. Only those wastewater disposal systems that meet the requirements and separation distances under ARM 17.36.101-116 and ARM 17.36.301-345 and/or under Yellowstone City-County Board of Health Rule Number 3 are allowed.
2. Storage and disposal of solid waste, hazardous waste, toxic, flammable, or explosive materials; and
3. Cemeteries, mausoleums, or any other places of burial of human remains.

**CHAPTER 6 GENERAL STANDARDS FOR IDENTIFIED FLOODPLAINS
WITH NO BASE FLOOD ELEVATIONS OR A FLOODWAY**

6.1 APPLICATIONS

The minimum floodplain development standards listed in this chapter apply to 100 year floodplains determined by the following “Best Available Data” where no floodway or floodway fringe has been established:

- a. Approximate floodplain studies and maps adopted by FEMA, MTDNRC and/or Yellowstone County;
- b. Unnumbered “A” Zones on the Flood Insurance Rate Maps;
- c. Shallow flooding “AO” Zones on Floodway or Flood Insurance Rate Maps;
- d. Areas where water surface elevations are available but no floodway is defined;
- e. Flood Prone Areas as identified on USGS maps; and
- f. Flooding as shown on the June 14, 1997 photographs of the Yellowstone River for areas not included on the FEMA Floodway and Flood Insurance Rate Maps.

A development proposed in a 100-year floodplain defined by the “Best Available Data” may not significantly increase flood velocities or depths or generally alter patterns of flood flow. The provisions of Section 5.2, Floodway and Section 5.3, Floodway Fringe shall apply to these areas. The Floodplain Administrator may require a permit applicant to furnish additional hydraulic data before acting on a permit application for such a floodplain. The data may include, but is not limited to, any of the following:

- a. A hydrology study determining the 100 year flood flows, floodway and BFE;
- b. A hydraulic study documenting probable effect on upstream or downstream property owners caused by the proposed development; and/or
- c. The calculated increase in the 100-year floodwater surface profile caused by the proposed development.

Permits for proposed developments may be modified or denied if the additional information shows that the proposed use is in the floodway and would cause an additional flood hazard to adjacent property or significantly increased flood heights, or would cause a threat to the health or safety of its occupants. A significant (maximum) increase in flood height is one-half (1/2) foot for any anticipated encroachment or development.

A. USES REQUIRING PERMITS – All uses allowed in the floodway and floodway fringe subject to the issuance of a permit, according to the provisions of Sections 5.2.B and 5.3.B shall require permits from the Floodplain Administrator for areas determined by “Best Available Data”. Also, the provisions of Section 5.3.B apply to floodplains with no floodway delineated or water surface profile computed. Since there are no 100-year flood water surface profiles computed for these floodplains, the following conditions apply:

1. Elevation data on the 100-year flood shall be provided for subdivision proposals according to definitions and rules of the Montana Sanitation in Subdivisions Act, MCA 76-4 Part 1 and the rules adopted by DEQ under this Act. This data shall be used in applying Section 5.3.B of these regulations. Subdivision proposals shall

also provide that all public facilities and utilities are located and constructed to minimize or eliminate flood damage and provide for adequate drainage to reduce exposure to flood hazards.

2. The Floodplain Administrator may obtain, review, and reasonably use any base flood elevation and floodway data available from federal, state, or other sources, until such data has been provided by FEMA, to enforce Section 5.3.B of these regulations.
 3. The Floodplain Administrator may use historical flood elevations to determine suitable fill or floodproofing elevations as required by Section 5.3.B of these regulations. If historical flood evidence is not available, then the Floodplain Administrator shall determine, from a field review at the proposed development site, an appropriate fill or floodproofing elevation to use in applying Section 5.3.B of these regulations. The 100-year flood depth shall be referenced to the highest adjacent grade or stream flow line in determining which fill or flood-proofing heights to use in applying the provisions of Section 5.3.B of these regulations. In the absence of depth or elevation information, a minimum two-foot flood depth shall be used.
 4. The lowest floor (including basement) of any new construction or substantial improvement must be elevated or flood proofed above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM – at least 2 feet if no depth number is specified.
 5. In flood-prone areas and all other flood areas not shown on a FIRM, all new construction and substantial improvements shall:
 - a. be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
 - b. be constructed with materials resistant to flood damage,
 - c. be constructed by methods and practices that minimize flood damages,
 - d. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding, and
 - e. require new and replacement sanitary sewage and/or waste disposal systems to be designed to minimize or eliminate infiltration of flood waters into the systems and minimize or eliminate discharges from the systems into the flood waters.
- B. PROHIBITED USES** – Those uses prohibited in the floodway and floodway fringe, in accordance with Section 5.2.E and 5.3.C of these regulations, shall also be prohibited within the areas determined by “Best Available Data”.
- C. FLOODPLAIN BOUNDARY INTERPRETATION** – The Floodplain Administrator shall make interpretations where needed as to the exact location of the floodplain boundary when there is a conflict between a mapped boundary and actual field conditions. The burden of proof for floodplain boundaries where no floodway and floodway fringe have been delineated is on the landowner or developer to provide such boundaries of the floodway and floodway fringe.

CHAPTER 7 FLOOD PROOFING REQUIREMENTS

7.1 CERTIFICATION

If the following flood proofing requirements are to be utilized for a particular structure in accordance with these regulations, the methods used must be certified as adequate by a registered professional engineer, architect, or other qualified person.

7.2 CONFORMANCE

Permitted flood proofing systems shall conform to the conditions listed below and the flood proofing standards listed in Section 5.3.B.4 of these regulations for commercial and industrial buildings:

A. Electrical Systems

1. All incoming power service equipment, including all metering equipment, control centers, transformers, distribution and lighting panels, and all other stationary equipment must be located at least two (2) feet above the elevation of the 100 year flood.
2. Portable and movable electrical equipment may be placed below the elevation of the 100-year flood, provided that the equipment can be disconnected by a single plug and socket assembly of the submersible type.
3. The main power service lines shall automatically operate electrical disconnect equipment of manually operated electrical disconnect equipment located at an accessible remote location outside the designated floodplain and above the elevation of the 100 year flood.
4. All electrical wiring systems installed below the elevation of the 100-year flood shall be suitable for continuous submergence and may not contain fibrous components.

B. Heating Systems

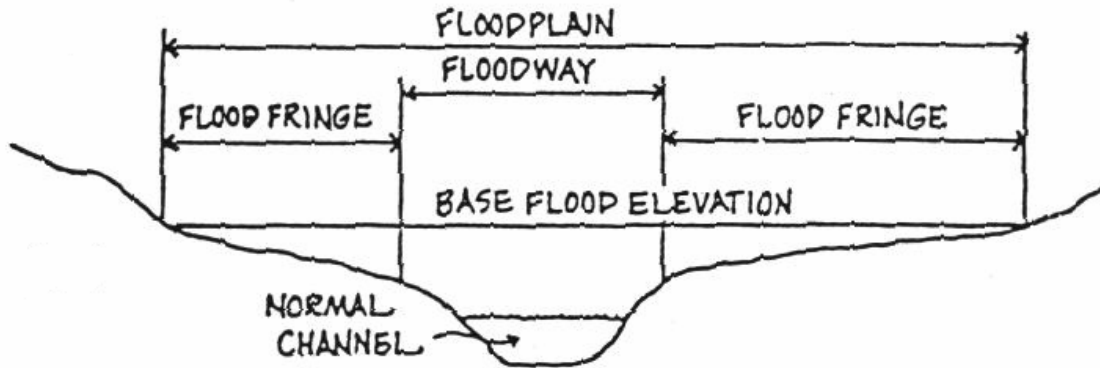
1. Float operated automatic control valves must be installed in gas furnace supply lines so that fuel supply is automatically shut off when flood waters reach the floor level where the furnace is located.
2. Manually operated gate valves must be installed in gas supply lines. The gate valves must be operable from a location above the elevation of the 100-year flood.
3. Electric heating systems must be installed in accordance with the provisions of Section 7.2.A.

C. Plumbing Systems

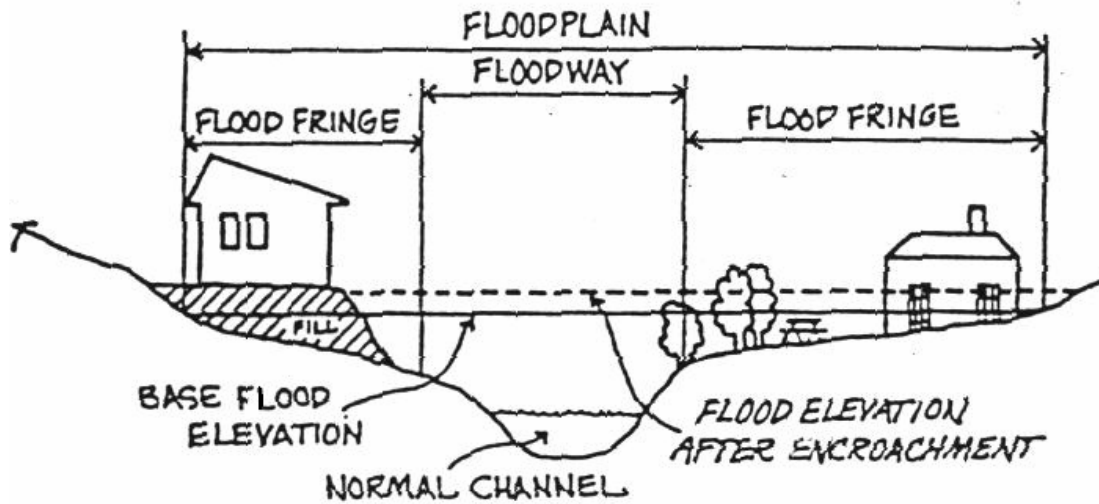
1. Sewer lines, except those to be buried and in sealed vaults, must have check valves installed to prevent sewage backup into permitted structures.
2. All toilets, stools, sinks, urinals, and drains must be located so the lowest point of possible entry is at least two (2) feet above the 100 year flood elevation.

APPENDIX A SKETCHES OF FLOODPLAIN ZONES

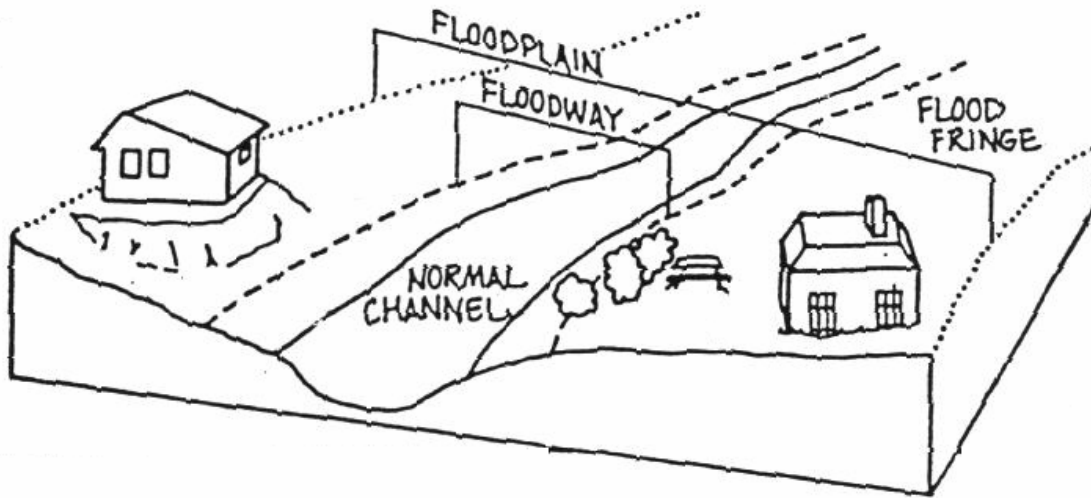
**CROSS-SECTIONAL VIEW
NO DEVELOPMENT**

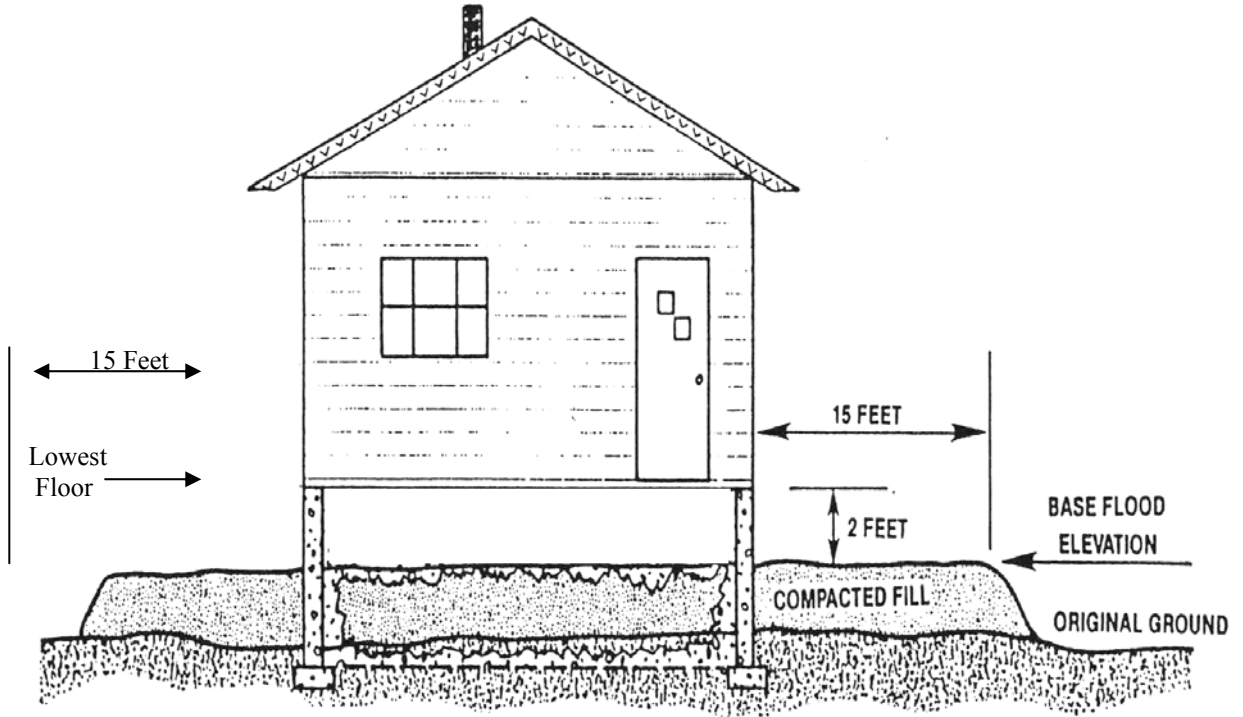


**CROSS-SECTIONAL VIEW
WITH EXISTING & NEW DEVELOPMENT**



PERSPECTIVE VIEW





APPENDIX B – JOINT PERMIT APPLICATION

| | | |
|-------------------------|----------|---|
| Application 09/24/03 | Revised: | AGENCY USE ONLY: Application # _____ Date Received _____ Date Accepted _____ Date Forwarded to DFWP _____ |
|-------------------------|----------|---|

JOINT APPLICATION FOR PROPOSED WORK IN MONTANA'S STREAMS, WETLANDS, FLOODPLAINS, AND OTHER WATER BODIES

Use this form to apply for one or all of the local, state, or federal permits listed below. The insert titled "Information to Applicant" includes agency contact information and instructions on how to complete this application. After completing the form, make the required number of copies and sign each copy. Send the copies, with original signatures and additional information required, directly to each applicable agency. To expedite your application, be sure all required information, including a project site map and drawings are included. Incomplete applications will be rejected. Note: other laws may apply. It is your responsibility to obtain all permits and landowner permission, if applicable, before beginning work.

| <input checked="" type="checkbox"/> | <u>PERMIT</u> | <u>AGENCY</u> | <u>FEE</u> |
|-------------------------------------|---|--|-----------------------------|
| | 310 Permit | Local Conservation District | No Fee |
| | SPA 124 Permit | Department of Fish, Wildlife and Parks | No Fee |
| | Floodplain Permit | County Floodplain Administrator | Varies (\$25 - \$400) |
| | Section 404 Permit, Section 10 Permit | U. S. Army Corps of Engineers | Varies (\$0 - \$100) |
| | 318 Authorization | Department of Environmental Quality | \$150 |
| | Navigable Rivers Land Use License or Easement | Department of Natural Resources and Conservation | License \$25; Easement \$50 |

A. APPLICANT INFORMATION

NAME OF **LANDOWNER** at project location: _____
Mailing Address: _____ Day Phone: _____
Physical Address: _____ Evening Phone: _____
City/State/Zip: _____

NAME OF **APPLICANT** (if different from landowner): _____
Applicant is: Landowner Contractor Other (explain)
 Government Agency Landowner's Agent (title)
Has the landowner consented to this project? Yes No
Mailing Address: _____ Day Phone: _____
Physical Address: _____ Evening phone: _____
City/State/Zip: _____

B. PROJECT SITE INFORMATION

NAME OF **STREAM** or **WATER BODY** at project location _____ Nearest Town _____
Address/Location: _____ Geocode (if available): _____
____ 1/4 ____ 1/4 ____ 1/4, Section _____, Township _____, Range _____ County _____
Longitude _____, Latitude _____ (if available)

ATTACH A MAP OR A SKETCH of the project site that includes: 1) the water body where the project will take place, roads, tributaries, landmarks; 2) directions to the site; 3) a circled "X" representing the exact project location.

| | |
|---|---|
| <i>This space is for all Department of Transportation and SPA 124 permits (government projects)..</i> | |
| Project Name _____ | Contract letting date _____ |
| Control Number _____ | MEPA/NEPA Compliance <input type="checkbox"/> Yes <input type="checkbox"/> No |

C. PROJECT INFORMATION

1. In addition to the information requested below, a **PLAN OR DRAWING** of the proposed project **MUST** be attached. **This plan or drawing must include:** 1) a plan view (looking at the project from above; 2) an elevation view (looking at the project from either the right or left; 3) dimensions of the project; 4) dimensions and location of fill or excavation sites; 5) location of storage or stockpile materials; 6) location of existing or proposed structures, such as buildings, utilities, roads, or bridges; 7) drainage facilities; 8) an arrow indicating north. Floodplain permit applicants are encouraged to inquire locally since additional information is usually required.

2. TYPE OF PROJECT (check all that apply)

- | | | |
|--|--|---|
| <input type="checkbox"/> 1. Stream Crossing (bridges, culverts, fords) | <input type="checkbox"/> 9. Fish Habitat | <input type="checkbox"/> 17. Mining |
| <input type="checkbox"/> 2. Bridge/Culvert Removal | <input type="checkbox"/> 10. Recreation (docks, marinas, etc.) | <input type="checkbox"/> 18. Dredging |
| <input type="checkbox"/> 3. Road Construction/Maintenance | <input type="checkbox"/> 11. New Residential Structure | <input type="checkbox"/> 19. Core Drill |
| <input type="checkbox"/> 4. Bank Stabilization | <input type="checkbox"/> 12. Manufactured Home | <input type="checkbox"/> 20. Placement of |
| Fill | | |
| <input type="checkbox"/> 5. Flood Protection | <input type="checkbox"/> 13. Improvement to Existing Structure | <input type="checkbox"/> 21. Diversion |
| Dam | | |
| <input type="checkbox"/> 6. Channel Alteration | <input type="checkbox"/> 14. Commercial Structure | <input type="checkbox"/> 22. Utilities |
| <input type="checkbox"/> 7. Irrigation Structure | <input type="checkbox"/> 15. Wetland Alteration | <input type="checkbox"/> 23. Pond |
| <input type="checkbox"/> 8. Water Well/Cistern | <input type="checkbox"/> 16. Temporary Construction Access | <input type="checkbox"/> 24. Other |

3. WHAT IS THE PURPOSE of the proposed project?

4. IS THIS APPLICATION FOR an annual maintenance permit? Yes No
(If yes, an annual plan of operation must be attached to this application – see “Information for Applicant”)

5. PROPOSED CONSTRUCTION DATE: Start ____/____/____ Finish ____/____/____
Is any portion of the work already completed? Yes -- If yes, describe the completed work. No

6. DIMENSIONS OF THE PROJECT. Describe the impacted area. How many linear feet of bank will be impacted? How far will the proposed project extend into and away from the water body?

7. VEGETATION. Describe the vegetation at the site. What type and how much vegetation will be removed or covered with fill material? How will the disturbed area be revegetated?

8. MATERIALS. Describe the materials to be used and how much (cubic yards, linear feet, size, type, source of each).

9. EQUIPMENT. What equipment will be used for the proposed work?

10. WHAT STEPS WILL BE TAKEN DURING AND AFTER CONSTRUCTION TO MINIMIZE:

- Erosion, sedimentation, or turbidity?
- Stream channel alterations?
- Effects of stream flow or water quality caused by materials used or removal of ground cover?
- Effects on fish and aquatic habitat?
- Risks of flooding or erosion problems upstream and downstream?

D. ADDITIONAL INFORMATION FOR SECTION 404, SECTION 10, AND FLOODPLAIN PERMITS

If you are applying for a Section 404 or Section 10 permit, fill out questions 1-4. If you are applying for a Floodplain Permit, fill out questions 4-6. (Question 4 is required for Section 404, Section 10, and floodplain permits.)

1. Will the project involve placement of fill material in a wetland? If yes, describe. How much wetland area will be filled? Calculation the impacted area. Note: A delineation of the wetland may be required.
2. List the names and address of landowners adjacent to and across from the project site. (At its discretion, the permitting agency may contact these landowners.)

3. If there is a plan for compensatory mitigation, describe the location, nature, and amount of proposed mitigation on an attached sheet.
4. If you have already applied for any permits, list them and indicate whether they were issued, denied, or are pending. (Required for Section 404, Section 10, and Floodplain Permits.)

5. FEMA Map Number (if available) _____

6. Does this project comply with local planning or zoning regulations? Yes No

E. SIGNATURES/AUTHORIZATIONS

Each copy submitted to an agency must have original signature(s).

I certify that the above statements are true and correct. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the landowner. I authorize the inspection of the project site by inspection authorities. Both the landowner and the person doing the work have the duty to comply with the stipulations of permits and laws.

*Signature of Landowner Date Signature of Applicant Date

**(May be waived by agency for utilities and other easement holders)*

For Section 404/Section 10 applications, see signature Requirements for US Army Corps of Engineers in the "Guidelines For Completing Application."

Contractor/Agent Date

DISPUTE RESOLUTION – 310 PERMIT APPLICANTS ONLY

As the applicant, if you disagree with the conservation district’s decision on this application and wish to seek formal resolution, you may ask for a judicial review by filing a petition in district court **or** you may request a review by a three-member arbitration panel. **You are not required to make the choice** between judicial review and arbitration unless you disagree with the conservation district’s final action on this application and want to take formal action. The conservation district will provide you with information about resolving disputes when the 310 permit is issued. However, you may choose arbitration when you file this application or wait until you receive the permit decision. By choosing arbitration at the time of filing this application, you waive your right to have the final decision reviewed by district court.

If **you wish** to elect **arbitration**, please **check** the box. If you wish to **decide later** and retain your right for judicial review, **do not check** this box.

I agree to arbitration as the exclusive means of review of a conservation district’s decision on a 310 permit. I elect to sign an arbitration agreement as part of this application process and request a copy of the agreement. _____ (Initial)

APPENDIX C ELEVATION CERTIFICATE



FEMA

NATIONAL FLOOD INSURANCE PROGRAM

ELEVATION CERTIFICATE

AND

INSTRUCTIONS

NATIONAL FLOOD INSURANCE PROGRAM ELEVATION CERTIFICATE

PAPERWORK REDUCTION ACT NOTICE

Public reporting burden for this data collection is estimated to average 3.75 hours per response. The burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and submitting this form. You are not required to respond to this collection of information unless a valid OMB control number is displayed on this form. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Department of Homeland Security, Federal Emergency Management Agency, 500 C Street SW, Washington DC 20472, Paperwork Reduction Project (1660-0008).

NOTE: Do not send your completed form to this address.

PURPOSE OF THE ELEVATION CERTIFICATE

The Elevation Certificate is an important administrative tool of the National Flood Insurance Program (NFIP). It is to be used to provide elevation information necessary to ensure compliance with community floodplain management ordinances, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

The Elevation Certificate is required in order to properly rate Post-FIRM buildings, which are buildings constructed after publication of the Flood Insurance Rate Map (FIRM), located in flood insurance Zones A1-A30, AE, AH, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO. The Elevation Certificate is not required for Pre-FIRM buildings unless the building is being rated under the optional Post-FIRM flood insurance rules.

As part of the agreement for making flood insurance available in a community, the NFIP requires the community to adopt floodplain management regulations that specify minimum requirements for reducing flood losses. One such requirement is for the community to obtain the elevation of the lowest floor (including basement) of all new and substantially improved buildings, and maintain a record of such information. The Elevation Certificate provides a way for a community to document compliance with the community's floodplain management ordinance.

Use of this certificate does not provide a waiver of the flood insurance purchase requirement. Only a LOMA or LOMR-F from the Federal Emergency Management Agency (FEMA) can amend the FIRM and remove the Federal mandate for a lending institution to require the purchase of flood insurance. However, the lending institution has the option of requiring flood insurance even if a LOMA/LOMR-F has been issued by FEMA. The Elevation Certificate may be used to support a LOMA or LOMR-F request. Lowest floor and lowest adjacent grade elevations certified by a surveyor or engineer will be required if the certificate is used to support a LOMA or LOMR-F request. A LOMA or LOMR-F request must be submitted with either a completed FEMA MT-EZ or MT-1 package, whichever is appropriate.

This certificate is used only to certify building elevations. A separate certificate is required for floodproofing. Under the NFIP, non-residential buildings can be floodproofed up to or above the Base Flood Elevation (BFE). A floodproofed building is a building that has been designed and constructed to be watertight (substantially impermeable to floodwaters) below the BFE. Floodproofing of residential buildings is not permitted under the NFIP unless FEMA has granted the community an exception for residential floodproofed basements. The community must adopt standards for design and construction of floodproofed basements before FEMA will grant a basement exception. For both floodproofed non-residential buildings and residential floodproofed basements in communities that have been granted an exception by FEMA, a floodproofing certificate is required.

Additional guidance can be found in FEMA Publication 467-1, Floodplain Management Bulletin: Elevation Certificate, available on FEMA's website at <http://www.fema.gov/library/viewRecord.do?id=1727>.

ELEVATION CERTIFICATE

OMB No. 1660-0008
Expires March 31, 2012

Important: Read the instructions on pages 1-9.

SECTION A - PROPERTY INFORMATION

| | | |
|---|--|---|
| A1. Building Owner's Name | | For Insurance Company Use: Policy Number |
| A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. | | Company NAIC Number |

City _____ State _____ ZIP Code _____

A3. Property Description (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.) _____

A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.) _____

A5. Latitude/Longitude: Lat. _____ Long. _____ Horizontal Datum: NAD 1927 NAD 1983

A6. Attach at least 2 photographs of the building if the Certificate is being used to obtain flood insurance.

A7. Building Diagram Number _____

A8. For a building with a crawlspace or enclosure(s):

a) Square footage of crawlspace or enclosure(s) _____ sq ft

b) No. of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade _____

c) Total net area of flood openings in A8.b _____ sq in

d) Engineered flood openings? Yes No

A9. For a building with an attached garage:

a) Square footage of attached garage _____ sq ft

b) No. of permanent flood openings in the attached garage within 1.0 foot above adjacent grade _____

c) Total net area of flood openings in A9.b _____ sq in

d) Engineered flood openings? Yes No

SECTION B - FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

| | | | | | |
|--|------------|---------------------|---------------------------------------|-------------------|---|
| B1. NFIP Community Name & Community Number | | B2. County Name | | B3. State | |
| B4. Map/Panel Number | B5. Suffix | B6. FIRM Index Date | B7. FIRM Panel Effective/Revised Date | B8. Flood Zone(s) | B9. Base Flood Elevation(s) (Zone AO, use base flood depth) |

B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in Item B9.
 FIS Profile FIRM Community Determined Other (Describe) _____

B11. Indicate elevation datum used for BFE in Item B9: NGVD 1929 NAVD 1988 Other (Describe) _____

B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? Yes No
 Designation Date _____ CBRS OPA

SECTION C - BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on: Construction Drawings* Building Under Construction* Finished Construction
 *A new Elevation Certificate will be required when construction of the building is complete.

C2. Elevations – Zones A1-A30, AE, AH, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO. Complete Items C2.a-h below according to the building diagram specified in Item A7. Use the same datum as the BFE.
 Benchmark Utilized _____ Vertical Datum _____
 Conversion/Comments _____

Check the measurement used.

a) Top of bottom floor (including basement, crawlspace, or enclosure floor) _____ feet meters (Puerto Rico only)

b) Top of the next higher floor _____ feet meters (Puerto Rico only)

c) Bottom of the lowest horizontal structural member (V Zones only) _____ feet meters (Puerto Rico only)

d) Attached garage (top of slab) _____ feet meters (Puerto Rico only)

e) Lowest elevation of machinery or equipment servicing the building (Describe type of equipment and location in Comments) _____ feet meters (Puerto Rico only)

f) Lowest adjacent (finished) grade next to building (LAG) _____ feet meters (Puerto Rico only)

g) Highest adjacent (finished) grade next to building (HAG) _____ feet meters (Puerto Rico only)

h) Lowest adjacent grade at lowest elevation of deck or stairs, including structural support _____ feet meters (Puerto Rico only)

SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information. I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

Check here if comments are provided on back of form. Were latitude and longitude in Section A provided by a licensed land surveyor? Yes No

| | | | |
|------------------|--------------|----------------|----------|
| Certifier's Name | | License Number | |
| Title | Company Name | | |
| Address | City | State | ZIP Code |
| Signature | Date | Telephone | |



| | | | |
|---|-------|----------|----------------------------|
| IMPORTANT: In these spaces, copy the corresponding information from Section A. | | | For Insurance Company Use: |
| Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. | | | Policy Number |
| City | State | ZIP Code | Company NAIC Number |

SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION (CONTINUED)

Copy both sides of this Elevation Certificate for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments

Signature _____ Date _____ Check here if attachments

SECTION E - BUILDING ELEVATION INFORMATION (SURVEY NOT REQUIRED) FOR ZONE AO AND ZONE A (WITHOUT BFE)

For Zones AO and A (without BFE), complete Items E1-E5. If the Certificate is intended to support a LOMA or LOMR-F request, complete Sections A, B, and C. For Items E1-E4, use natural grade, if available. Check the measurement used. In Puerto Rico only, enter meters.

- E1. Provide elevation information for the following and check the appropriate boxes to show whether the elevation is above or below the highest adjacent grade (HAG) and the lowest adjacent grade (LAG).
 a) Top of bottom floor (including basement, crawlspace, or enclosure) is _____. ____ feet meters above or below the HAG.
 b) Top of bottom floor (including basement, crawlspace, or enclosure) is _____. ____ feet meters above or below the LAG.
- E2. For Building Diagrams 6-9 with permanent flood openings provided in Section A Items 8 and/or 9 (see pages 8-9 of Instructions), the next higher floor (elevation C2.b in the diagrams) of the building is _____. ____ feet meters above or below the HAG.
- E3. Attached garage (top of slab) is _____. ____ feet meters above or below the HAG.
- E4. Top of platform of machinery and/or equipment servicing the building is _____. ____ feet meters above or below the HAG.
- E5. Zone AO only: If no flood depth number is available, is the top of the bottom floor elevated in accordance with the community's floodplain management ordinance? Yes No Unknown. The local official must certify this information in Section G.

SECTION F - PROPERTY OWNER (OR OWNER'S REPRESENTATIVE) CERTIFICATION

The property owner or owner's authorized representative who completes Sections A, B, and E for Zone A (without a FEMA-issued or community-issued BFE) or Zone AO must sign here. *The statements in Sections A, B, and E are correct to the best of my knowledge.*

Property Owner's or Owner's Authorized Representative's Name

Address _____ City _____ State _____ ZIP Code _____

Signature _____ Date _____ Telephone _____

Comments

Check here if attachments

SECTION G - COMMUNITY INFORMATION (OPTIONAL)

The local official who is authorized by law or ordinance to administer the community's floodplain management ordinance can complete Sections A, B, C (or E), and G of this Elevation Certificate. Complete the applicable item(s) and sign below. Check the measurement used in Items G8 and G9.

- G1. The information in Section C was taken from other documentation that has been signed and sealed by a licensed surveyor, engineer, or architect who is authorized by law to certify elevation information. (Indicate the source and date of the elevation data in the Comments area below.)
- G2. A community official completed Section E for a building located in Zone A (without a FEMA-issued or community-issued BFE) or Zone AO.
- G3. The following information (Items G4-G9) is provided for community floodplain management purposes.

| | | |
|-------------------|------------------------|---|
| G4. Permit Number | G5. Date Permit Issued | G6. Date Certificate Of Compliance/Occupancy Issued |
|-------------------|------------------------|---|

- G7. This permit has been issued for: New Construction Substantial Improvement
- G8. Elevation of as-built lowest floor (including basement) of the building _____. ____ feet meters (PR) Datum _____
- G9. BFE or (in Zone AO) depth of flooding at the building site _____. ____ feet meters (PR) Datum _____
- G10. Community's design flood elevation _____. ____ feet meters (PR) Datum _____

Local Official's Name _____ Title _____

Community Name _____ Telephone _____

Signature _____ Date _____

Comments

Check here if attachments

Building Photographs

See Instructions for Item A6.

| | | | |
|---|-------|----------|----------------------------|
| Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. | | | For Insurance Company Use: |
| | | | Policy Number |
| City | State | ZIP Code | Company NAIC Number |

If using the Elevation Certificate to obtain NFIP flood insurance, affix at least two building photographs below according to the instructions for Item A6. Identify all photographs with: date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." If submitting more photographs than will fit on this page, use the Continuation Page on the reverse.

Building Photographs

Continuation Page

| | | | |
|---|-------|----------|----------------------------|
| Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. | | | For Insurance Company Use: |
| | | | Policy Number |
| City | State | ZIP Code | Company NAIC Number |

If submitting more photographs than will fit on the preceding page, affix the additional photographs below. Identify all photographs with: date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View."